FILED
JUN 29 2009
Clerk, U.S. District and Bankruptcy Courts

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MICHAEL DAVID LEE
213 15TH STREET
MANHATTAN BEACH, CA.
90266
Plaintiff

v.

COMPLAINT

Case: 1:09-cv-01214
Assigned To : Bates, John D.
Assign. Date : 6/29/2009
Description: Pro Se Gen. Civil

COMMISSIONER FOR PATENTS,
UNITED STATES PATENT AND
TRADEMARK OFFICE (USPTO)

Defendant

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Plaintiff, Michael David Lee, is commencing action against Defendant, Commissioner For Patents. United States Patent And Trademark Office (USPTO). in connection with USPTO's improper denial of renewal of plaintiff's patent 6,641,138 for ORIGINAL JAKE AND THE PANCAKE GAME (a board game). issued to plaintiff on November 4. 2003

USPTO issued a notice of patent expiration to plaintiff for patent 6,641,138 on December 3. 2007 and referred plaintiff in its notice to the USPTO Office of Petitions Help Desk at 571/272-3282 for guidance.

Plaintiff, Michael David Lee, is a teacher and not an attorney and is unable to afford the services of an attorney. Continuation of patent 6,641,138 is critical to plaintiff's ability to successfully license and /or manufacture the board game for sale. Accordingly, plaintiff, on or about January 3, 2008, held consultation with the USPTO Help Desk who advised plaintiff that he was eligible to renew patent 6,641,138 for a small entity fee of $465.00 and that payment of a surcharge of $65.00 was required for a total of $530.00. Plaintiff was further advised by the USPTO Help Desk to file form PTO/SB/66 accompanying the payment. Plaintiff relied on the advice of the USPTO Help Desk for how he should proceed and for amounts paid.

On January 3, 2008, based on consultation with the USPTO Help Desk, plaintiff filed form PTO/SB/66 Petition To Accept Unintentionally Delayed Payment of Maintenance Fee with USPTO including payment of $530.00 (check # 1558 dated 1/3/08 from account of Michael Lee at Bank of America, Manhattan Beach, CA branch).

On March 28,2008, USPTO issued a notice of dismissal denying renewal of patent 6,641,138 citing failure of plaintiff to state that delay was unintentional, notwithstanding that form PTO/SB/66 filed by plaintiff with USPTO is titled Petition To Accept Unintentionally Delayed Payment of Maintenance Fee. The USPTO notice of dismissal also stated that the surcharge would be $1,640.00, notwithstanding that the USPTO Help Desk advised plaintiff that the surcharge would be $65.00 and that plaintiff qualified for small entity status.

Plaintiff sent a series of letters to USPTO dated May 15,2008 et al requesting relief and renewal of patent 6,641,138 and citing his reliance on the USPTO Help Desk.

On April 29,2009, USPTO denied the plaintiff's petition and disregarded the plaintiff's reliance on the USPTO Help Desk including specifically required fees based on small entity status.

Plaintiff, Michael David Lee contends that he has been unfairly dealt with by USPTO since he is unable to afford the services of an attorney in obtaining renewal of patent 6,641,138, ORIGINAL JAKE AND THE PANCAKE GAME. Plaintiff also contends that USPTO erred in denying renewal of patent 6,641,138 since he followed the advice of the USPTO Help Desk in filing the petition for renewal on form PTO/SB/66 as a small entity and with respect to amounts paid.

Plaintiff, Michael David Lee respectfully requests the Court to grant him relief by **overturning the USPTO denial dated April 29, 2009 of renewal of patent 6,641,138,** ORIGINAL JAKE AND THE PANCAKE GAME.

Signed at Greenwich, Connecticut this twenty sixth day of June, 2009

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Plaintiff